THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.992 OF 2005

21.09.2006

Between:

Junnuthula Somakka, W/o.Late Malla Reddy
And others

… Petitioners

AND

The Joint Collector, Warangal District
And others

… Respondents

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WRIT PETITION No.992 OF 2005

ORDER:

The fourth respondent herein filed an application before the third respondent under Section 5A of A.P. Rights in Land and Pattadar Pass Books Act, 1971 (the Act, for brevity) to regularize the sale transaction and issue pattadar pass book (PPB) in respect of the land admeasuring Acs.0.37 guntas in survey No.639/A to D, situated at Waddepalli Village of Hanmakonda Mandal in Warangal District. She alleged that the husband of the first petitioner executed an unregistered sale deed dated 11.4.1972 in her favour. The third respondent considered the matter and issued a certificate of regularization in favour of the fourth respondent. Aggrieved by the same, the petitioners preferred appeal under Section 5B of the Act before the second respondent. The same was allowed, by order dated 24.2.2003, canceling the PPB and title deed issued to the fourth respondent and remanded the matter to the Mandal Revenue Officer, Hanmakonda Mandal (MRO), for conducting fresh enquiry, after giving notice to all the parties. Accordingly, the MRO, again, conducted enquiry by giving notice to all the parties and by order dated 14.7.2003 disposed of the matter observing that the claim of fourth respondent for PPB and title deed is genuine and that the petitioners herein have no claim over the land. Aggrieved by the said order, the petitioners again filed appeal under Section 5B of the Act before the second respondent. By order dated 22.4.2004, the second respondent set aside the order of the MRO, giving liberty to the parties to seek redressal in the civil Court. This was the subject matter of revision petition before the first respondent under Section 9 of the Act, at the instance of the fourth respondent. By order dated 31.12.2004, the first respondent set aside the order of the second respondent observing that if a person is aggrieved by any of the record of rights, such person may seek declaration of title as per Section 8(2) of the Act.

Learned Counsel for the petitioners submits that the land is not agricultural land and, therefore, the Act has no application. Secondly, he submits that originally Junnuthula Lingaiah was original pattadar of subject land, that after his death his four sons partitioned the property and after their death the petitioners being the legal heirs are enjoying the property and that the husband of the first petitioner never executed any unregistered document in favour of fourth respondent. These

contentions are refuted by the learned Assistant Government Pleader for Revenue (General). Though notice is served on the fourth respondent, none appears for her.

There cannot be any doubt that by reason of the definition of the term “land” in Section 2(4) of the Act is made applicable only to agricultural land. The land, which is no more in use for agriculture, or the land, which has been used as urban land, is not governed by the provisions of the Act. In this case, though the matter was decided by the MRO as well as Revenue Divisional Officer, Warangal (RDO) twice, the petitioner did not raise any objection regarding the jurisdiction of these Authorities on the ground that it is not an agricultural land. It is only before the Joint Collector, the petitioners raised such a contention. The Joint Collector framed three issues. Issue No.1 deals with the jurisdiction of the Authorities under the Act. It was held that for the purpose of Section 5A of the Act, the transaction under which the vendee came into possession of the land should have been taken place before 31.7.1989 and that the transferee’s name ought to have been shown as an occupant in the pahanies. As a question of fact, the first respondent found that both the conditions are satisfied and accordingly held that the land continues to be agricultural land. The second contention was rejected by the first respondent observing that the fourth respondent produced evidence of her possession pursuant to the document, which was sought to be regularized. However, having regard to the genuineness of the document, the first respondent thought it fit to give liberty to the petitioners to agitate the matter before the civil Court. Such an approach of the Revisional Authority cannot be faulted as illegal or contrary to the provisions of Section 9 of the Act.

The writ petition, with the above observations, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

September 21, 2006
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